

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	3:05-cr-00110-LRH-VPC
Plaintiff,)	
)	<u>MINUTE ORDER</u>
vs.)	
)	March 16, 2009
LAMOR THERELLE ANDREWS,)	
)	
Defendant.)	
_____)	

PRESENT: THE HONORABLE LARRY R. HICKS, UNITED STATES DISTRICT JUDGE

DEPUTY CLERK: ROSEMARIE MILLER REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

Before the court is Defendant's Motion Pursuant to 18 U.S.C. § 3582(c)(2) and 28 U.S.C. § 994 (o) (#40¹). The Government has responded (#43) and the court will accept the Government's response. Plaintiff's motion is denied.

The court does not have jurisdiction to modify a Defendant's sentence under 18 U.S.C. § 3582(c)(2) and 28 U.S.C. § 994 (o) as there has been no modification by the Sentencing Commission that would apply to the guideline range determined at the Defendant's sentencing. The Defendant was sentenced in conformity with the guidelines applicable at the time of his sentencing as well as the current time.

The court further finds that the Defendant has waived his double jeopardy challenge to convictions upon Counts I and II being derived from the same offense. This challenge would have had to be addressed pursuant to 28 U.S.C. § 2255, which sets forth the one-year statute of limitations. Defendant's argument was also not raised on appeal and his motion is untimely. Moreover, the consecutive sentences imposed on Defendant are consistent with the law applicable to the Defendant's convictions and do not defend the double jeopardy clause. *Missouri v. Hunter*, 459 U.S. 359, 367 (1983). Defendant's motion (#40) is DENIED.

LANCE S. WILSON, CLERK

By: /s/
Deputy Clerk

¹Refers to court's docket number.